THE BOMBAY PORT TRUST ACT, 1879.

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BOMBAY ACT No. VI OF 1879 [1].

[*4th September, 1879.*]

An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.

Preamble.

WHEREAS it is expedient that the immoveable and other property vesting in the trustees of the Port of Bombay should be consolidated with certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and that such consolidated estate should, together with the rights and powers now exercisable by the said trustees, be vested, subject to the provisions hereinafter appearing, in a new trust; It is enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called the Bombay Port Trust Act, 1879.

Repeal of Bombay Act I of 1873.

2. From the date [2] which shall be notified by the Governor in Council under section 8, Bombay Act I of 1873 (the Bombay Port Trust Act, 1873), shall be repealed:

Provided that all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with, or for the trustees appointed under the said Act shall be deemed to have been incurred, entered into, or engaged to be done by, with, or for the Board constituted by this Act;

and all rates and sums of money due to the said trustees shall be deemed to be due to the said Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted, by or against the said trustees, may be continued or instituted by or against the said Board.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

(*1*) the word "rates" includes any toll, due, rent, rate, or charge leviable under section 43:

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1878, Pt. V, p. 126, and *ibid*, 1879, Pt. V, p. 149; for Report of the Select Committee, *see ibid*, 1879, Pt. V, p. 14, and for Proceedings in Council, *see ibid*, 1879, Pt. V, pp. 4, 98, 110 and 151.

[2] The 1st November, 1879—*see* Bombay Government Gazette, 1879, Pt. I, p. 814.

(*2*) "port" means the Port of Bombay within such limits as may, from time to time, be defined by Government for the purposes of this Act, by notification in the *Bombay Government Gazette*, and until a notification is so issued, within such limits as may have been defined by Government under section 73 of the [1] Bombay Port Trust Act, 1873, for the purposes of that Act:

Bom. Act I of 1873.

(*3*) [*Definition of "vessel."*] *Rep. Bom. Act III of 1886, Schedule B*[2].

(*4*) "master", when used in relation to any vessel, means any person having for the time being the charge or control of such vessel:

(*5*) "owner", when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods: and, when used in relation to any vessel, includes any part-owner, charterer, consignee or mortgagee in possession thereof:

(*6*) "land" includes the bed of the sea below high-water mark:

(*7*) "wharf" includes a bandar and any part of the foreshore used for loading or unloading goods, and any wall enclosing or adjoining the same:

(*8*) "dock" includes basins, locks, cuts, entrances, graving-docks, graving-blocks, inclined planes, patent slips, gridirons, quays, warehouses, and other works and things appertaining to any dock:

(*9*) "pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge or pontoon, and any bridges or other works connected therewith:

(*10*) the word "goods" includes wares and merchandise of every description:

(*11*) "immoveable property" includes wharfage-rights and all other rights exercisable on, over, or in respect of any land, wharf, dock, or pier:

[3](*12*) the words "public securities" mean:

(*a*) promissory notes, debentures, stock or other securities of the Government of India;

(*b*) debentures or other securities for money issued by, or on behalf of,—

(*i*) any Municipal body or any Port Trust under the authority of any Act of a legislature established in British India;

(*ii*) the [4] City of Bombay Improvement Trust under the authority of Act IV of 1898.

Bom. Act IV of 1898.

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[1] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.

[2] This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] Cl. (*12*) of s. 3 was substituted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 1, Vol. IV of this Code.

The original clause was as follows:—

"the words 'Public Securities' mean securities of the Government of India, Bombay Municipal Debentures and securities and debentures issued under sections 30 and 41, respectively, of this Act."

[4] Vol. IV of this Code.

II.—Of the Board of Trustees.

Constitution of Board.

Act to be carried out by trustees.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitation as are hereinafter contained, be vested in a Board, to be called "the trustees of the Port of Bombay", and such Board, hereinafter referred to as "the Board", shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Constitution of Board.

5. The Board shall consist of thirteen members, that is to say, of—

five elective-trustees,

seven nominee-trustees, and

a Chairman;

and not less than three of the trustees shall be natives of India residing in the City of Bombay.

Elective-trustees elected by Bombay Chamber of Commerce;

6. The elective-trustees shall be elected by the members for the time being of the Bombay Chamber of Commerce in such manner as shall, from time to time, be determined at a meeting of the members of the said Chamber convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber shall make a return to the Government of the name of every person so elected by the Chamber, and his return shall be published in the *Bombay Government Gazette*.

or nominated by Government.

In the event of default being made by the Chamber in electing any trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government by notification in the *Bombay Government Gazette* to nominate a person, and the person so nominated shall be deemed to be a trustee as if he had been duly elected by the Chamber.

Appointments by Government.

7. The nominee-trustees and the Chairman shall be appointed by Government by notification in the *Bombay Government Gazette*.

Commencement of term of office of first trustees.

8. The term of office of the first nominee and elective-trustees shall commence on such date [1] as shall be notified in this behalf by the Governor in Council.

Term of office of nominee and elective-trustees.

9. * * * * *[2] The nominee and elective-trustees shall, unless they become in the meantime disqualified, hold office for a term of two years.

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[1] The 1st November, 1879—*see* Bombay Government Gazette, 1879, Pt. I, p. 814.

[2] The following was repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), Vol. IV of this Code.:—

"Three of the first nominee-trustees and three of the first elective-trustees shall, unless they become in the meantime disqualified, hold office up to and inclusive of the 31st day of March next succeeding the date on which their term of office shall commence, the selection of the said six trustees being made by lot at such time and in such manner as the Chairman shall determine. The remaining four of the first nominee-trustees and the remaining two of the first elective-trustees shall hold office until and inclusive of the 31st day of March next following the 31st day of March aforesaid In every other case".

Trustees to be appointed and elected in March.

10. * * * [1] Elective-trustees shall be elected on some day not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence; and nominee-trustees shall be appointed on some day in the remainder of the said month of March.

Chairman's tenure of office.

11. The Chairman shall hold office during the pleasure of Government: Provided that he does not in the meantime cease, through disqualification, to be a trustee.

Trustees re-eligible.

12. Any person on ceasing to be a trustee shall, unless disqualified under section 14, be re-eligible.

Casual vacancies.

13. (*1*) Any casual vacancy in the office of a trustee other than the Chairman, occasioned by the death, resignation, or disqualification of such trustee, shall be filled up within one month by Government if the office vacated was that of a nominee-trustee, or by the Chamber of Commerce if it was that of an elective-trustee, in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and elections of trustees: Provided that the trustee so chosen shall retain his office so long only as the vacating trustee would have retained the same if such vacancy had not occurred.

Acting trustees.

(*2*) If a trustee departs from Bombay with an intention of being absent for a longer period than three months, or if a trustee shall have been absent for such period, a person shall be elected or appointed as aforesaid to act for such trustee during his absence or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Saving provision for acting appointment when necessary for less than three months.

[2](*3*) Nothing in the last preceding sub-section shall prevent a person being elected or appointed for a shorter period than three months in the place of an absent trustee, on the application of the Board if the absentee be an elective-trustee, or at the discretion of Government if he be a nominee-trustee.

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[1] The following was repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), Vol. IV of this Code:—

> "The first elective-trustees shall be elected on some day not later than a fortnight previous to the date which shall be notified by the Governor in Council under section 8, and the first nominee-trustees shall be appointed on some day during the said fortnight; in every other case."

[2] Cl. (*3*) of s. 13 was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 2, Vol. IV of this Code.

Disqualifications of Trustees.

Disqualifications for office of trustee.

[1]**14.** (*1*) A person shall be disqualified to be a trustee who—

(*a*) is an uncertificated bankrupt or insolvent ; or

(*b*) has been convicted and sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such conviction not having been subsequently reversed or quashed ; or

(*c*) holds any office or place of profit under the Board ; or

(*d*) has directly or indirectly, by himself or his partner, any share or interest in any contract, or employment, with, by, or on behalf of, the Board.

Proviso.

(*2*) But a person shall not be so disqualified, or be deemed to have any share or interest in such contract or employment, by reason only of his having a share or interest in—

(*a*) any lease, sale, exchange or purchase of immoveable property, or any agreement for the same ; or

(*b*) any license by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway sidings or any berth for vessels in the docks belonging to the Board ; or

(*c*) any agreement for the loan of money, or any security for the payment of money only ; or

(*d*) any newspaper in which any advertisement relating to the affairs of the Board is inserted ; or

(*e*) any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board ; or

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[1] This section was substituted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 3, Vol. IV of this Code.

The original section was as follows :—

"No person shall be qualified to be a trustee during such time as he

(*a*) is an uncertificated bankrupt or insolvent, or

(*b*) holds any office or place of profit under the Board, or

(*c*) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of, the Board ; and any trustee who

(*d*) becomes disqualified for any of the aforesaid reasons, or

(*e*) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board, or

(*f*) is sentenced to imprisonment,

shall cease to be a trustee, and his office shall thereupon become vacant :

Provided always that no trustee shall vacate his office by reason only of his

(*g*) having a share in any joint stock company which shall contract with, or be employed by, or on behalf of, the Board, or

(*h*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(*i*) being interested in any loan of money to the Board."

(*f*) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades.

Grounds on which trustees shall vacate office.

[1]**14A.** Any trustee who—

(*a*) becomes disqualified for any of the reasons mentioned in the last preceding section; or

(*b*) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or without the permission of the Board from six consecutive ordinary meetings of the Board; or

(*c*) acts in contravention of the provisions of the next succeeding section;

shall cease to be a trustee, and his office shall thereupon become vacant.

Restriction on power of trustees to vote or discuss matters in which they are interested.

[1]**14B.** A trustee shall not at any meeting of the Board or a Committee thereof take part in the discussion of, or vote on any matter in which he has directly or indirectly, by himself or his partner, any share or interest such as is described in section 14, sub-section (*2*), or in which he is interested either professionally on behalf of a client or as agent for any person.

Salaries of Trustees.

Salary of Chairman.

15. (*1*). The Chairman shall receive such salary as Government shall from time to time determine.

Fees to which trustees other than the Chairman shall be entitled.

[2](*2*). Every trustee other than the Chairman who shall attend a meeting at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof, shall be entitled to a fee of—

For an ordinary meeting of the Board.

(*a*) Rs. 30 for every ordinary meeting of the Board, provided that if such meeting is adjourned or more than one ordinary meeting is held in any one week, no more than Rs. 30 shall be paid to any trustee for his attendance at all such meetings during that one week;

For a special meeting of the Board.

(*b*) Rs. 30 for every special meeting of the Board convened under sub-section (*2*) (*b*) of the next succeeding section;

For a special meeting of a Committee.

(*c*) Rs. 15 for every special meeting of a Committee of which such trustee attending is a member, convened under sub-section (*5*) of the next succeeding section, provided that such special meeting of a Com-

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[1] Ss. 14A and 14B were inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 4, Vol. IV of this Code.

[2] Cls. (*2*) and (*3*) of s. 15 were substituted for the original clause (*2*) by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 5, Vol. IV of this Code.
The original clause was as follows:—

"Every trustee other than the Chairman shall be entitled to a fee of thirty rupees for each meeting of the Board at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one week, no more than thirty rupees shall be paid to any trustee for his attendance at all such meetings during that one week."

mittee is not held upon the same day in continuation of or preparatory to an ordinary or special meeting of the Board for which he is entitled to a fee under either of the preceding clauses.

Proviso.

[1](3) The aggregate amount of fees payable to any trustee under the last preceding sub-section in respect of meetings held during any month shall not exceed Rs. 200, or such sum as may be fixed by any bye-law from time to time made in this behalf.

Proceedings of Board.

Provisions as to Board's proceedings.

16. The following provisions shall be observed with respect to the proceedings of the Board, namely :—

Vacancy not to affect proceedings.

(1) during any vacancy in the Board, the continuing trustees may act as if no vacancy had occurred ;

Board to arrange for transaction of business ;

(2) the Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely :—

to meet once a fortnight ;

(*a*) that a meeting shall be held once at least in every fortnight ;

special meetings ;

(*b*) that the Chairman may, whenever he thinks fit and shall, upon the written request of not less than three trustees, call a special meeting ;

quorum ;

(*c*) that no business shall be transacted at any meeting unless at least five trustees are present from the beginning to the end of such meeting ;

presiding at meetings ;

(*d*) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent by such one of the trustees present as may be chosen by the meeting ;

questions decided by majority of votes ;

(*e*) that all questions shall be decided by a majority of votes of the trustees present, the President having a second or casting vote in all cases of equality of votes ;

votes to be recorded, if poll demanded ;

(*f*) that if a poll be demanded the names of the trustees voting and the nature of their votes shall be recorded by the President ;

minutes of proceedings ;

(*g*) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the

[1] *See* the second foot-note on p. 715, *supra*.

President of such meeting, and shall be open to inspection by any trustee during office-hours ;

Board may delegate powers to committees.

(3) the Board may delegate any of their powers to committees consisting of such trustees as they think fit; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed ;

Chairman of committee-meetings.

(4) a committee may elect a Chairman of their meetings, and if no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting ;

Meetings of committees. Special meetings.

(5) committees may meet and adjourn as they think proper; but the Chairman of the Board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee ;

Questions how decided at committee-meetings.

(6) questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the Chairman of the meeting shall have a second or casting vote ; but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof ;

Acts of Board etc., not invalidated by informalities.

(7) no act of the Board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, committee, or trustee, or on the ground that they, or any of them, were disqualified for the office of trustee.

Power of Chairman as to contracts.

17. The Chairman may, on behalf of the Board, enter into any contract or agreement whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing, and shall be signed by the Chairman and by two other trustees, and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board.

Chairman's signature may be engraved.

[1] **17A.** Notwithstanding anything contained in section 17, the signature of the Chairman may be engraved, lithographed, or impressed by any mechanical

[1] S. 17A was inserted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 3 of 1881), s. 1, *infra*, p. 796.

process on the coupons attached to debentures issued under this Act, and such signature so engraved, lithographed, or impressed, shall be as valid as if the same had been subscribed in the proper handwriting of the said Chairman.

Board may compound for breach of contract.

18. The Board may compound or compromise for, or in respect of, any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money, or other compensation, as they shall deem sufficient.

The Chairman.

Duties of Chairman.

19. The Chairman shall —

(*1*) attend every meeting of the Board unless prevented by sickness or other reasonable cause ;

(*2*) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances ;

(*3*) furnish to the Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

Leave of absence to Chairman.

20. Government may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person whom Government appoints to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

Leave and acting allowances how defrayed.

The allowance, if any, which Government direct to be paid to the Chairman during his absence on leave, and the salary which Government direct to be paid to the person appointed to act for him, shall be a charge on the general account of the Board.

III.—Of the Officers and Servants of the Board.

Strength of Staff.

Schedule of staff and of pay and allowances to

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth

the amount and nature of the salaries, fees and allowances which the Board sanctions for each such officer or servant. be prepared and sanctioned by Board.

[1] * * * * * * * *

Provided always that artisans, porters, and labourers, and mukaddams of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section or of section 22 [2] [(except clauses (*5*), (*6*) and (*7*) thereof)] or 23[3] * * * . Proviso.

22. The Board shall from time to time frame regulations— Board to regulate—

(*1*) for regulating the grant of leave to the officers and servants of the Board; grant of leave;

(*2*) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave; absentee allowances;

(*3*) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave; acting allowances;

(*4*) for regulating the period of service of all such officers and servants; Length of service;

(*5*) for determining the conditions under which such officers and servants or any of them shall, on retirement, receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances: pensions, etc.;

[4] Provided that it shall be in the discretion of the Board to determine whether all of such officers and servants, or any, and, if so, which of them, shall become entitled on retirement to any such pensions, gratuities or compassionate allowances as aforesaid;

(*6*) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any provident fund which may, with their approval, be established by the officers and servants appointed under this Act, [5] [or to such provident contributions to provident fund.

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[1] Para. 2 of s. 21 was repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 21, Vol. IV of this Code.
Para. 2 was as follows:—
"Until a schedule is prepared and sanctioned under this section, the schedule in force under s. 23 of the Bombay Port Trust Act, 1873, on the day previous to the date notified by the Governor in Council under section 8, shall be deemed to be the schedule prepared and sanctioned by the Board under the foregoing provisions".

[2] These words and figures were inserted by the Bombay Port Trust Act Amendment Act, 1883 (Bom. Act 3 of 1883), s. 1, *infra*, p. 823, and the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 6, Vol. IV of this Code.

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[4] This proviso was inserted by the Bombay Port Trust Act Amendment Act, 1883 (Bom. Act 3 of 1883) s. 2, *infra*, p. 823.

[5] These words were added by the Bombay Port Trust Act Amendment Act, 1883 (Bom. Act 3 of 1883) s. 3, *infra*, p. 823.

fund, if any, as may be established by the Board for the benefit of such officers and servants].

Determining conditions of grant of wound pensions or compassionate allowances.

[1](7) for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such officers and servants injured, or to the surviving relatives of any of such officers and servants killed, in the execution of their duty.

Proviso as to certain officers and servants.

Provided that officers and servants who were appointed by Government previous to the passing of the [2] Bombay Port Trust Act, 1873 and whose salaries were paid from the fund known as "The Bombay Port Fund," and who have continued in the service of the trustees appointed under the [2] Bombay Port Trust Act, 1873, and of the trust constituted by this Act, shall be entitled to retiring pensions, gratuities or compassionate allowances at the same rates and subject to the same conditions as may from time to time be applicable to the servants of Government of similar standing and status; and that in the event of any question arising as to the right of any such officer or servant to a retiring pension, gratuity or compassionate allowance, or as to the amount of retiring pension, gratuity or compassionate allowance to which he is entitled, it shall be determined by Government.

Bom. Act I of 1873.

Bom. Act I of 1873.

Powers of Appointment, etc.

Appointments, etc., by whom to be made.

23. [3][Subject to the provisions of the schedule for the time being sanctioned by the Board under section 21 and of the regulations for the time being in force] under section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Board.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

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[1] Cl. (7) of s. 22 was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 7, Vol. IV of this Code.

[2] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.

[3] These words were substituted for the words "Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board" in section 23 by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 9, Vol. IV of this Code.

Sanction of Government when necessary.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of Government.

"Engineer" defined.

In this section the word "Engineer" means the engineer of highest grade on the Board's ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Board.

Continuance of present Officers and Servants.

Officers and Servants of late trustees continued.

25. All officers and servants holding any office on the day previous to the date notified by the Governor in Council under section 8, under the trustees appointed under the [1] Bombay Port Trust Act, 1873, shall be deemed to have been appointed under this Act, and shall continue to hold the same office and to receive the same remuneration under the Board until an order to the contrary is passed by competent authority under this Act.

Bom. Act I of 1873.

IV.—Of the Property and Liabilities of the Board.

General Powers as to Property.

Powers of Board as to property.

26. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the Port or City of Bombay; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Provided that no sale of immoveable property and no lease of any such property for a term exceeding fifty years shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

Procedure when Board unable to acquire, by agreement, immoveable property.

27. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the [2] Land Acquisition Act, 1870.

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

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[1] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.
[2] *See* now the Land Acquisition Act, 1894 (Act 1 of 1894), as modified up to 1st August, 1903.

Transfer of Property to Board.

Transfer to Board of property of present Port Trust.

28. All such immoveable and other property as is held by or in trust for the trustees of the Port of Bombay under or in pursuance or for the purposes of the [1] Bombay Port Trust Act, 1873, shall, upon and after the date notified by the Governor in Council under section 8, vest in the Board but subject to all charges and liabilities affecting the same. Bom. Act I of 1873.

The property vested by this section in the Board shall be deemed to include the estate, right, title and interest of the Secretary of State for India in Council in the rock, stones, shingle, gravel, sand or soil within the port, and also the right of levying rates on all goods landed at or shipped from any part of the foreshore between Malabar Point and Kolaba Point.

Vesting in Board the right, title and interest acquired by Secretary of State in other properties.

29. Whereas the Secretary of State for India in Council has initiated measures for the acquisition from the holders thereof, of the properties severally named and generally described in Schedule A, but the arrangements for the said acquisition are not yet complete; and whereas it is expedient that all such estate and interest as may be acquired by the Secretary of State for India in Council in the said properties should vest in the Board; It is hereby enacted that, upon and after such [2] date as shall be fixed in this behalf by the Governor in Council, all the estate, right, title and interest of the Secretary of State for India in Council, in the said properties shall, subject to the provisions hereinafter contained, become vested in the Board, subject to all covenants, charges, contracts and liabilities affecting the same.

Board to issue securities in payment of price of properties vested in them under section 29.

30. And whereas it is purposed that the purchase-money of the said properties shall be paid in Port Trust securities bearing interest at the rate of four per centum per annum; It is hereby enacted that the Board shall within two months from the date aforesaid execute and deliver to the holders of the said properties, securities in the form of Schedule B, under their common seal, for the sums for which their said properties shall be respectively purchased by the Secretary of State for India in Council: Provided that the said sums shall not exceed, in the aggregate, seventy-seven lakhs of rupees, and that so long as the said amount is not exceeded it shall be competent to the Secretary of State for India in Council to acquire such estate, right, title and interest in the said properties as he shall deem fit, anything contained in Schedule A notwithstanding.

Securities to be for not less than one

Every such security shall be for an amount of not less than one hundred rupees, and shall covenant for the payment of interest on the principal sum at

[1] The Bombay Port Trust Act, 1873 (Bom. Act I of 1873), is repealed by s. 2 of this Act.
[2] For notification fixing the date on which these properties vest in the Port Trust, *see* Bombay Government Gazette, 1885, Pt. I, p. 1212.

the rate of four per centum per annum from the date fixed by the Governor in Council under section 29 ; and such interest shall be payable half-yearly on or after the 1st April and the 1st October. hundred rupees each

The said securities shall be transferable by endorsement. and transferable.

[1] **30A.** The Board may from time to time, with the previous consent of Government, provide for the issue of securities in lieu of those already issued or yet to be issued under section 30 in a form other than that of Schedule B, and for the payment of the interest due on the principal sums thereby secured by coupons annexed to the said securities, or in such other manner as they shall think fit. Substitution of securities in new forms for those issued under section 30.

The holder of any security in the form of Schedule B, or in any new form duly authorized under this section, may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a security in any other form so authorized.

Every new security issued under this section shall be transferable in such manner as shall be therein expressed, [2] [anything in section 30 to the contrary notwithstanding.]

Application of the Board's Property.

31. The proceeds of the sale of any portion of the property vested in or acquired by the Board under or by virtue of this Act, and all sums paid to the Board by way of compensation under the next following section, shall be applied as follows, and not otherwise, namely :— Sale-proceeds of Board's property how invested.

(*a*) in liquidation of the principal sum of any debt contracted under paragraph 2 of section 39 if the same or any portion of the same is at the time payable ; or

(*b*) in liquidation of the principal of any debt at the time due to the Secretary of State for India in Council ; or

(*c*) in liquidation of the securities, or of any of them, issued under section 30.

32. Nothing in this Act shall be deemed to affect the power of Government to order proceedings to be taken under the [3] Land Acquisition Act, 1870 or any other law for the time being in force for the acquisition of land for public purposes in respect of any land vesting in the Board. Saving of powers of Government under the Land Acquisition Act.

X of 1870.

[1] S. 30A was inserted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 1 of 1881), s. 1, *infra*, p. 795.

[2] These words and figures were added by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 3 of 1881), s. 2, *infra*, p. 796

[3] *See* now the Land Acquisition Act, 1894 (1 of 1894), as modified up to 1st August, 1903.

Liabilities.

Capital-debts of Board.

33. The capital-debts due by the Board on account of the immoveable and other property vested in it by this Act are as follows, namely :—

(*a*) to the Secretary of State for India in Council—the amounts mentioned in Schedule C ; and the amounts which have been advanced by or on behalf of the Secretary of State for India in Council to the trustees appointed under the [1] Bombay Port Trust Act, 1873, or applied by or on behalf of the said Secretary of State in Council, with the consent of the said trustees, for the improvement of the Port of Bombay or otherwise under sections 46 and 50, clause (*2*), of the said Act ; Bom. Act I of 1873.

(*b*) to the holders of the securities to be issued by the Board under section 30—the amounts of such securities.

Interest in what cases payable.

34. On the amounts mentioned in column 3 of Schedule C no interest shall be payable.

On the amounts mentioned in column 2 of the said schedule, interest shall be payable by the Board to the Secretary of State for India in Council annually on the 1st April at the rate of four per centum per annum until, and inclusive of, the twenty-fifth day of June, 1883, and thereafter at the rate of four and one-half per centum per annum.

On the amounts due to the Secretary of State for India in Council under clause (*a*) of the last preceding section, which are not mentioned in the said schedule, interest shall be payable by the Board to the said Secretary of State in Council annually on the 1st April at the rate of four and one-half per centum per annum.

On the amounts, if any, which may hereafter be advanced to the Board by the Governor in Council under section 39 * * *[2], interest shall be payable by the Board to the Secretary of State in Council on such dates and at such rates as shall be agreed upon between Government and the Board in respect of such advances.

On the amounts of the securities issued by the Board under section 30 [3] [or section 30A] interest at the covenanted rate of four per centum per annum shall be payable by the Board half-yearly on the 31st March and the 30th September to the Accountant-General of Bombay or other officer for the time

[1] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873), is repealed by s. 2 of this Act.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904) Vol. IV of this Code.

[3] This reference waslinserted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 3 of 1881), s. 3, *infra*, p. 795.

being performing the duties of the office of the said Accountant-General, who shall pay the same on or after the 1st April and 1st October, respectively, to the holders of the said securities.

If any sum due by the Board under this section on account of interest, or any portion thereof, is not paid by them on the date on which the same is hereby declared to be payable, they shall continue liable for the payment thereof, and interest shall be paid by them to the Secretary of State for India in Council upon the balance from time to time overdue at the rate of four and one-half per centum per annum, until the whole amount is paid.

Interest to be paid out of Provincial revenues if default made by Board.

35. In the event of default being made by the Board in any payment of interest due by it under paragraph 2, 3 or 4 of the last preceding section, the same shall be paid by the Accountant-General of Bombay or other officer aforesaid, who shall debit the amount so paid to the Provincial revenues of the Presidency of Bombay; and, in the event of default being made by the Board in any payment due by it under paragraph 5 of the said section, the Accountant-General or other officer aforesaid shall nevertheless pay to the security-holders the interest due upon their securities, and shall debit the amounts so paid to the Provincial revenues of the Presidency of Bombay.

Lump payment to be made to Municipality in lieu of general tax.

[1] **36.** The Board shall pay annually, on the thirtieth day of September, to the Municipal Corporation of the City of Bombay in lieu of the general tax leviable by the said Corporation in respect of the property or some portion of the property, vested in the Board, which would otherwise be liable to be assessed to the said tax, a sum ascertained in the manner provided in sub-sections (*2*) and (*3*).

(*2*) The rateable value of the buildings and lands in the city vesting in the Board in respect of which the said tax would be leviable from the Board shall be fixed from time to time by the Governor in Council. The said

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[1] This section was substituted by the City of Bombay Municipal Act, 1888 (Bom. Act 3 of 1888), s. 145, Volume III, of this Code.
The original section was as follows:—

"The Board shall pay annually on the 30th day of September to the Municipal Corporation of the City of Bombay a lump sum which shall be calculated at the following rates, namely:—

(*a*) for the period commencing on the 1st day of October last preceding the date on which this Act comes into force and ending on the day next previous to the date fixed by the Governor in Council under section 29 at the rate of fifty thousand rupees per annum;

(*b*) for the period commencing on the date fixed as aforesaid and ending on the 25th day of June, 1883, at the rate of sixty thousand rupees per annum; and

(*c*) thereafter at such rate as the Governor in Council shall from time to time determine.

"The said payment shall be in lieu of the consolidated rate leviable by the said Corporation, to which the property hereby vested in the Board or some portion of the same would otherwise be liable to be assessed."

value shall be fixed with a general regard to the provisions contained in the [1] City of Bombay Municipal Act, 1888, concerning the valuation of property assessable to property-taxes, at such amount as the Governor in Council shall deem to be fair and reasonable. Every such decision of the Governor in Council shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Board materially increases or decreases. Bom. Act III of 1888.

(3) The sum to be paid annually to the Corporation by the Board shall be [2] [nineteen-twentieths] of the amount which would be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (2).

Roads and thoroughfares constructed by Board to be maintained by Municipality in consideration of such payment.

37. In consideration of the said payment the Municipal Commissioner shall, on being satisfied that any road or thoroughfare has been duly levelled, paved, metalled, flagged, channelled and sewered by the Board, declare such road or thoroughfare to be a public road or thoroughfare, and the Municipality shall thenceforward maintain, keep in repair, light and cleanse such road or thoroughfare. [3] [Provided that in respect of any such road or thoroughfare wholly constructed after the passing of this Act the Commissioner before making such declaration may further require to be satisfied that the same has been drained, and that such lamps, lamp-posts and other apparatus as in his opinion are necessary for the lighting thereof and should be provided by the Board have been so provided.] The Municipality shall also, on requisition by the Board, maintain, keep in repair, light and cleanse the road of any wharf, dock or pier vested in the Board.

Roads and thoroughfares not to be stopped up without consent of Board.

The Municipality shall maintain, keep in repair, light and cleanse the said roads and thoroughfares in the same manner and with the same liabilities in respect thereof as if the said roads and public thoroughfares were vested in the said Municipality; but it shall not be competent to the Municipal Commissioner or to the Municipality to discontinue or stop up any road or thoroughfare which at any time vested in, or which has been constructed by, the Board or the Trustees of the Port appointed under the [4] Bombay Port Trust Act, 1873, and which has been declared to be a public road or thoroughfare under this section or under section 9 of the said Act, without the previous consent in writing of the Board; and the land occupied by any road or Bom. Act I of 1873.

[1] Vol. III of this Code.
[2] These words were substituted for the words "nine-tenths" by s. 2 of the Bombay Port Trust Act Amendment Act, 1901 (Bom. Act 2 of 1901), Vol. IV of this Code.
[3] These words were inserted in s. 37 by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 9, Vol. IV of this Code.
[4] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.

thoroughfare so discontinued or stopped shall vest in the Board and not in the Municipality.

Disputes under last section to be settled by Government.

38. Any dispute which arises between the Board and the Municipality in respect of any of the provisions of the last preceding section shall be determined by the Government, and their decision shall be final.

V.—Of the Borrowing Powers of the Board.

Governor in Council may advance money to Board, or

39. The Governor in Council, acting on behalf of the Secretary of State for India in Council, may, with the previous consent of the Governor General of India in Council, from time to time, advance money to the Board for the general purposes of this Act; or

Board may raise loans.

the Board may, with the previous consent of Government, from time to time, raise money for the said purposes [1][or for the purpose of repaying, either in whole or in part, any moneys heretofore or hereafter borrowed, or owing by the Board :]

Proviso.

Provided always that no expenditure shall be charged by the Board to capital, except with the express sanction of Government.

Manner of raising loans determined by Government.

40. Whenever the consent of Government has been obtained to the raising of money by the Board under the last preceding section, Government shall, with the previous consent of the Governor General of India in Council, direct and appoint the manner in which such money shall be raised.

Interest on debentures to be first charge on rates.

41. If such money shall be raised on debentures bearing interest, such interest shall be a charge on the rates prior to the charge for interest payable to the Secretary of State for India in Council provided for by section 34.

Forms of debentures.

[2] 42. When money is raised by the Board on debentures, the debentures shall be in the form of Schedule D, or in such other form as the Board, with the previous consent of Government, shall from time to time determine.

The holder of any debenture in the form of Schedule D, or in any form duly authorized under this section, may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a debenture in any other form so authorized.

Every debenture issued by the Board shall be transferable,—

(*a*) if it is in the form of Schedule D, by endorsement, and,

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[1] These words were inserted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 3 of 1881), s. 4, *infra*, p. 796.

[2] This section was substituted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 1 of 1881), s. 2, *infra*, p. 795.

The original section was as follows:—

"All debentures which may be so issued shall be in the form of Schedule D, and shall be transferable by endorsement, and the right to sue in respect of the moneys secured by any such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others."

(*b*) if it is in any other form, in such manner as shall be therein expressed.

The right to sue in respect of the money secured by debentures issued under this section shall vest in the respective holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

Right of survivors of joint payees of securities.

[1] 42A. (*1*) Notwithstanding anything in the [2] Indian Contract Act, 1872, section 45, when any debenture or security issued under the provisions of this Act is payable to two or more persons jointly and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons. Act IX of 1872.

(*2*) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the debenture or security jointly payable to him or them and the deceased.

(*3*) This section shall apply whether the death of the person to whom the debenture or security was jointly payable occurred or occurs before or after this Act comes into force.

Power of one of two or more joint holders to grant receipts.

[1] 42B. Where two or more persons are joint holders of any debenture or security issued under the provisions of this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Board by any other of the holders.

VI.—Of Revenue and Expenditure.

Levy of Rates.

Scale of rates to be framed by Board.

43. The Board shall frame a [3] scale of tolls, dues, rents, rates and charges to be levied for each or any of the following matters namely:—

(*a*) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at,

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[1] Ss. 42A and 42B were inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 10, Vol. IV of this Code.

[2] *See* the reprint of the Act as modified up to 1st September, 1899 (with footnotes brought down to 30th June, 1901).

[3] For scale of rates for wharfage, landing and storage of ammunition and other explosives, at Sewri, *see* Bombay Government Gazette, 1900, Pt. I, p. 263, and *ibid*, 1901, Pt. I, p. 726.

For scale of charges for "Warrant" and "Unwarrant" goods deposited in Port Trust Warehouses, *see* Bombay Government Gazette, 1885, Pt. I, pp. 142 and 660; *ibid*, 1887, Pt. I, p. 466, and *ibid*, 1888, Pt. I, p. 76.

For rates chargeable at Victoria Dock, *see* Bombay Government Gazette, 1888, Pt. I, p. 296.

For wharfage fees payable at Port Trust Bandars, *see* Bombay Government Gazette, 1888, Pt. I, p. 923, and *ibid*, 1902 and 1903, Pt. I, pp. 1808 and 993, respectively.

For other notifications issued under s. 43, *see* those noted on pp. CXXI to CXXIV of the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

(*b*) for permission for vessels or boats to approach, or to be alongside, and

(*c*) for animals or vehicles carrying goods to or from, or entering upon or plying for hire at or on,

any wharf, dock, [1][pier, land or building]—in the possession of the Board, and so much of the Wari Bandar and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay, Baroda and Central India Railway Companies respectively: Provided that no such toll, due, rent, rate or charge shall be leviable at so much of the said Wari Bandar and Gun Carriage Reclamation as is aforesaid in respect of any goods, vessel, animal or vehicle belonging to the said companies respectively.

[2]* * * * * * *

Scale of charges for use of dock, &c.

[3]43A. The Board may also frame a scale of charges to be levied—

(*a*) for the permission to use, and for the use of, any dock in the possession of the Board, and for services which the Board renders to, and for gear, tackle, tools, instruments, utensils, staging or materials supplied by the Board for the purpose of, any vessel using, or any person working in, any such dock;

(*b*) subject to the provisions of section 68, for the use of water-boats, barges and fire-engines belonging to or maintained by the Board, and for water supplied by the Board in accordance with the provisions of section 68; and

(*c*) for the towing of, and rendering assistance of the nature referred to in clause (*9*) of section 68 to vessels outside the limits of the port.

Scales framed under the

[3] 43B. (*1*) Every scale framed by the Board under either of the two last preceding sections shall be submitted to Government for sanction; and,

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[1] These words were substituted for the words "or pier" by the Bombay Port Trust Act Amendment Act, 1883, (Bom. Act 6 of 1883), *infra*, p. 824.

[2] The last three paragraphs of s. 43, were repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), Vol. IV of this Code.

The three repealed paragraphs were as follows:—

"The scale so framed shall be submitted to Government for sanction, and when so sanctioned and published in the *Bombay Government Gazette*, shall have the force of law, and, subject to the like sanction and publication, may from time to time be amended or added to by the Board.

"Until a scale of rates is framed, sanctioned and published under this section, the scale in force when this Act comes into operation under s. 57 of the Bombay Port Trust Act, 1873, shall be deemed to have been duly framed, sanctioned and published under this section.

"The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates leviable under this section."

[3] Ss. 43A and 43B were inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 12, Vol. IV of this Code.

last two sections to be submitted to Government for sanction.

when so sanctioned and published in the *Bombay Government Gazette*, shall have the force of law; and, subject to the like sanction and publication, may from time to time be amended[1] or added to by the Board.

Rates may be remitted in special cases.

(*2*) The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section.

44. [*Toll on troops.*] *Rep. Act II of 1901* [2].

Charges for landing, shipping and transhipping goods.

45. Subject to the provisions of any law for the time being in force, the Board may land, ship or tranship goods between vessels in the harbour and the wharves, piers or docks in their possession, and may make such charges for so doing as they shall think fit.

Charges for towage.

46. The Board may procure and maintain such number of steam-vessels as they may deem fit, to be employed in towing vessels into, out of, or in the harbour, and may make such charges for towage by the said steam-vessels as they shall think fit.

Division of Accounts.

Pilotage account.

47. In the accounts of the Board a pilotage account shall be kept separate from the general account.

Items to be credited to general account.

48. The rates and charges from time to time levied under sections 43 to 46, together with all rents of lands and buildings, and all fines and penalties levied under this Act, other than fines and penalties levied from pilots or other persons employed in the pilot service, and all miscellaneous items of revenue recovered by the Board, except pilotage fees, shall be credited to the general account.

Moneys credited to general account how expended.

49. The moneys credited to the general account shall be held by the Board in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges, namely :—

(*1*) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the trustees and to the officers and servants appointed under this Act, and the contributions, if any, duly authorized to be made to any provident fund established by the said officers and servants, [3][or to such provident fund, if any, as may be established by the Board for the benefit of such officers and servants; and, if any such provident fund be established by the Board, the costs and expenses, if any, which

[1] Several notifications making alterations in these scales have since 1902 been issued under this section. As an instance of such a notification, *see* Bombay Government Gazette, 1902, Pt. I, p. 1156.

[2] General Acts, Vol. VII, p. 142.

[3] These words were added by the Bombay Port Trust Act Amendment Act, 1883 (Bom. Act 3 of 1883), s. 4, *infra*, p. 823.

may be incurred by the Board in the conduct and administration thereof] ;

(*2*) the cost of repairs and maintenance of the property vested in the Board and all charges upon the same and all working expenses ;

(*3*) the interest due on any money that may have been raised by the Board under section 39 ;

(*4*) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue ;

(*5*) the interest payable by the Board under section 34 ;

[1] (*6*) the payment of pensions, gratuities and compassionate allowances granted by the Board to officers and servants of the Board injured, or to the surviving relatives of such officers and servants killed, in the execution of their duty :

Provided always that no charge which is debitable under section 50 to the pilotage account shall be debited to the general account.

Pilotage fees how credited. Moneys credited to pilotage account how expended.

50. All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilot service shall be credited to the pilotage account and shall be held by the Board in trust, and be applied, in such proportions as they shall from time to time direct, to the following purposes only, namely :—

(*1*) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores or other things as the Board deem it necessary to maintain or supply for the efficiency of the pilot service ;

(*2*) the payment of the salaries and allowances of pilots and other officers and servants of the Board employed in the pilot service or in the supervision thereof ;

(*3*) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot service, and of the contributions, if any, duly authorized to be made in their behalf to any provident fund ;

[2] (*4*) The payment of pensions, gratuities and compassionate allowances granted by the Board to pilots and other officers and servants engaged in the pilot-service, who have been injured, and to the

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[1] Cl. (*6*) of s. 49 was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 13, Vol. IV of this Code.

[2] Cl. (*4*) of s. 50 was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 14, Vol. IV of this Code.

surviving relatives of pilots, officers and servants so engaged, who have been killed, in the execution of their duty.

Disposal of Balances.

Balances may be invested by Board in public securities.

51. The Board may invest any balance remaining on the 31st March of each year to the credit of either the general or pilotage account after meeting all the charges properly debitable to such account, in public securities, and may from time to time sell the said securities and re-invest the proceeds in other public securities, or credit the same to the account to which the balance invested belonged, for expenditure on any of the purposes to which the moneys credited to such account may lawfully be applied.

Amounts to be so invested to be limited by Government. Surplus how disposed of.

But the money so invested by the Board, whether in respect of the general account or of the pilotage account, shall not exceed such amount, annually or in the aggregate, as shall from time to time be prescribed by Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied—

(*a*) if such surplus belongs to the general account—in liquidation, on or before the 1st August next following the 31st March on which such surplus accrued, of the principal of any loan raised by the Board under section 39 or of the capital of any debt at any time due by the Board to the Secretary of State for India in Council; or of the money due to the holders of the securities issued by the Board under section 30; and

(*b*) if such surplus belongs to the pilotage account—in such manner as Government shall direct:

Proviso as to claims of pilot, etc., on balance of pilotage account.

Provided always that the pilots and other officers and servants employed in the pilot service shall have no claim upon any balance to the credit of the pilotage account or upon the profits or interest arising from any investment thereof, or of any portion thereof, except to such extent as payments to them, or in their behalf, may from time to time be sanctioned by the Board under clauses (*2*) and (*3*) of section 50.

Interest, etc., how credited and debited.

The interest and profits accruing and the loss, if any, arising from such investments as aforesaid shall be respectively credited and debited to the account to which the balance invested belongs.

Board may invest in

[1] **51A.** (*1*) For the purposes of any investment which the Board are authorized to make by this Act it shall be lawful for the Board to reserve and

[1] Section 51A was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 15, Vol. IV of this Code.

set apart any debentures or securities to be issued by them on account of any loan to which the consent of Government has been given, provided that the intention to so reserve and set apart such debentures or securities shall have been notified as a condition to the issue of the loan. their own debentures and securities.

(*2*) The issue of any such debentures or securities direct to and in the name of "The Trustees of the Port of Bombay" shall not operate to extinguish or cancel such debentures or securities, but every debenture or security so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(*3*) The purchase by, or the transfer, assignment or endorsement to, the Board of any debenture or security issued by the Board shall not operate to extinguish or cancel any such debenture or security, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.

(*4*) All debentures or securities of the Board heretofore purchased by, issued, transferred or assigned to, or endorsed into the names of, the Trustees of the Port of Bombay, or any person on their behalf, and all debentures and securities heretofore issued by way of renewal, consolidation or subdivision of any such debentures or securities, shall be and shall be deemed to have always been valid and negotiable in all respects and in the same manner and to the same extent as if held by, or issued, transferred, assigned or endorsed to any other person.

Annual Estimates.

52. The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing in such detail and form as the Board shall from time to time direct. Chairman to submit annual estimate of income and expenditure.

Such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each trustee at least ten clear days prior to the meeting before which the estimate is to be laid.

53. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit. Board to revise and sanction estimate.

54. The estimate, as sanctioned by the Board, shall be submitted to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Estimate to be submitted to Government.

Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended to the Government.

Supplementary estimates may be made when necessary.

55. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to the Government in the same manner as if it were an original annual estimate.

No expenditure above five thousand rupees to be incurred unless sanctioned in estimate.

56. Save in cases of pressing emergency, no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

57. [*Preparation and Acceptance of Estimate.*] *Rep.* [1]*Bom. Act I of 1899.*

Audit of Accounts.

Accounts to be audited and examined.

58. The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined by such auditors as shall, from time to time, be appointed by Government.

Auditors to have power to call for books, etc.

For the purposes of such audit and examination, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Remuneration to be fixed by Government. Report to be published.

The auditors shall be paid by the Board such remuneration as Government shall determine, the amount being debited to the general account; and, within fourteen days after the audit and examination shall have been completed, the auditors shall forward their report upon the accounts to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette.*

Fulfilment of Board's Liabilities.

Board bound to provide for

59. It shall be incumbent on the Board to make ample provision year by year, either by retrenchment of expenditure or by increase of rates, for the due

[1] Vol. IV of this Code.

fulfilment of all their liabilities and for the efficient administration of this Act; and, in the event of any deficiency being at any time anticipated in the income of the Board, they shall forthwith take such measures as shall seem most expedient for preventing such deficiency.

fulfilment of liabilities.

60. If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, or if default shall at any time be made by the Board in any payment of interest which they are required to make under section 34, the Governor in Council may require the Board, by an order in writing signed by a Secretary to Government, to increase, subject to his sanction and to the provisions of section 43, to such extent and for such period as shall appear necessary, the rates or any of the rates for the time being in force under the said section.

In default, Governor may require Board to increase rates;

If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette*, increase the said rates or any of them, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned and published under section 43.

and on Board's failing may himself increase them.

And for the purpose of realizing any interest which has not been paid by the Board when due, in accordance with section 34, the Governor in Council may, by an order published in the *Bombay Government Gazette*, appoint some person to receive the rates, charges and other income which the Board may be entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses authorized by Government in respect of the appointment of such person and of the recovery by him of the said rates, charges and income: and the person so appointed shall have, for the recovery of the said rates, charges, or other income, all and singular the powers and authorities conferred by this Act on the Board for the said purpose.

Governor may also appoint receiver to recover portion of Board's income.

VII.—Of the Powers and Functions of the Board.

Recovery of Rates.

61. For the amount of all rates leviable under this Act in respect of any goods the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid. Rates in respect of goods to be landed shall become payable immediately on the landing of such goods. Rates in respect of goods to be removed from the premises of the Board or to

Recovery of rates in arrears.

be shipped for export shall be payable before such goods are removed or shipped. The lien for such rates shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods (where such lien exists and has been preserved in the manner hereinafter provided), for primage and for money payable to Her Majesty or to the Secretary of State for India in Council.

Lien for freight preserved after landing if notice be given.

62. If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock or pier in the possession of the Board, shall give to the Board notice, in writing, that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Chief Customs authority of the Presidency, in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned.

Discharge of lien by payment or release.

63. Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

If rates not paid, or lien for freight not discharged, goods may be sold after two months.

64. If the rates payable to the Board in respect of any goods are not paid, or if the lien of the ship-owner for freight, when such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods) as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Bombay Government Gazette*, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Application of proceeds of sale.

65. In every case of any such sale as aforesaid, the moneys received from the sale shall be applied as follows—

firstly, in payment, according to their respective priorities, of the liens and claims excepted in section 61 from the priority of the lien of the Board for rates;

secondly, in payment of the expenses of the sale;

thirdly, in payment of the rates and expenses due to the Board in respect thereof.

The surplus, if any, shall be paid to the owner of the goods or his agent on his applying for the same, provided such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made, to the satisfaction of the Board; and in case such application shall not be so made, nor reason shown, such surplus shall be applied by the Board to the purposes of this Act.

Power to distrain for non-payment of rates, etc.

66. If the master of any vessel in respect of which any rates, charges or penalties shall be payable under this Act, or any bye-laws made in pursuance hereof, shall refuse or neglect to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their own authority, such vessel, and the tackle, apparel or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid; and, in case any part of the said rates or penalties, or of the costs of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not granted till rates, etc., are paid.

67. If the Board shall give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of rates, charges or penalties chargeable under this Act or any bye-laws or orders made in pursuance hereof, against such

vessel, or the owner or master of such vessel, in respect thereof, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Alternative remedy by suit.

[1]67A. Notwithstanding anything contained in the seven sections last preceding and in section 85, the Board may recover by suit any tolls, dues, rents, rates, charges, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalties or fines payable to, or recoverable by, the Board under this Act or under any bye-laws made in pursuance thereof.

Works.

Works to be executed under Act.

68. The works to be undertaken by the Board under this Act may include—

(*1*) wharves, docks and piers within the port or on the foreshore of the port, with all necessary and convenient arches, drains, fences, roads, railways and approaches;

(*2*) tramways, warehouses, sheds, engines and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(*3*) light-houses, light-ships, beacons, pilot boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;

(*4*) laying down moorings, and the erection of cranes, scales and all means and appliances necessary for berthing, loading and unloading vessels;

(*5*) reclaiming, excavating, enclosing and raising any part of the foreshore of the port vested in the Board, when such reclamation, excavation, enclosure or raising may be necessary for any of the purposes of this Act;

(*6*) the construction and application of dredges and other machines for cleaning, deepening and improving any portion of the port or foreshore aforesaid;

(*7*) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act;

[1] S. 67A was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 16, Vol. IV of this Code.

[1](*8*) the extinguishing of fires on the property of the Board, and the equipment, maintenance and use of engines for that purpose;

[1](*9*) the equipment of vessels, steam tugs or other boats and their use as well within the limits of the port as on the high seas beyond those limits, and whether in territorial waters or otherwise, for the purpose of towing or rendering assistance to any vessel, whether entering or leaving the port or bound elsewhere, and for the purpose of saving or protecting life or property;

[1](*10*) the supply of water to shipping in the port, and the equipment, maintenance and use of boats and barges for that purpose;

[1](*11*) the extinguishing of fires in the port, and the equipment, maintenance and use of engines for that purpose:

Procedure before commencement of new work.

Provided always that no new work, the estimated cost of which exceeds two thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them; nor shall any new work the estimated cost of which exceeds two lakhs of rupees be commenced until such plan and estimate shall have been submitted to and approved by Government.

Regulation of use of Wharves, etc.

Saving of—

69. Nothing in this Act shall be deemed to affect—

rights of Government to use wharves, etc., for collecting duties; and of powers of Customs-officers.

(*a*) the right of Government to collect customs-duties, or of the Municipal Corporation of the City of Bombay to collect town-duties, at any wharf, pier or dock in possession of the Board, or

(*b*) any power or authority vested in the customs-authorities of the Presidency under any law for the time being in force for the administration of sea-customs.

Places to be set apart for use of Customs-officers on wharves, etc.,

70. Whenever any wharf, pier or dock in the possession of the Board shall be appointed, under the provisions of any Act for the time being in force for the administration of sea-customs, a wharf or place for the landing and shipping of goods within the meaning of such Act,

and whenever any warehouse, or portion of a warehouse, in the possession of the Board shall be appointed or licensed under the provisions of any such Act as a warehouse for the deposit of dutiable goods on the first importation thereof without payment of duty,

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[1] Cls. (*8*) to (*11*) of s. 68 were inserted by the Bombay Port Trust Act Amendment Act 1899 (Bom. Act 1 of 1899), s. 15, Vol. IV of this Code.

the Board shall set apart and maintain such place on or adjoining such wharf, dock or pier, or in such warehouse, or portion of a warehouse, for the use of the officers of Customs, as Government shall in that behalf approve or appoint;

but right of Board to levy rates not affected;

but all rates payable in respect of any wharf, pier or warehouse, or portion thereof, so set apart, or for the storage of goods thereupon or therein, shall be paid to the Board or to such person or persons as they may appoint to receive the same, notwithstanding that the same has been so set apart;

surplus income derived from portion of Customs Bonded Warehouse used as public warehouse to be paid to Board.

and if any portion of the Customs Bonded Warehouse shall, with the consent of Government, be appointed a public warehouse for the deposit of dutiable goods as aforesaid, the Board shall set apart and maintain such portion thereof in good order for the said purpose; but the Chief Customs-authority shall pay to the Board from time to time, as may be determined by Government, all surplus income derived from the use of such portion of the said Customs Bonded Warehouse as a public warehouse as aforesaid after payment of all charges and expenses of management.

Board to provide free landing-places.

71. The Board shall provide such number of public landing-places as shall, in the opinion of Government, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Control of Pilots.

Board vested with right and privilege of maintaining pilots.

72. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and all fees for pilotage shall be paid to the Board: provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the [1] Indian Ports Act, 1875, to pilot vessels. XII of 1875.

The Board may also, from time to time, make such [2] bye-laws and regulations as they shall think fit—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(*b*) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension or deprivation of appointment, or otherwise, as to them may appear expedient:

Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 74.

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[1] *See* now the Indian Ports Act, 1889 (10 of 1889), as modified up to 1st April, 1901.

[2] For notifications issued under this section in conjunction with s 74, *see* those noted on pp. CXXIV, *et. seq.*, of the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

Bye-laws.

Board empowered to make bye-laws.

73. The Board may, from time to time, make bye-laws—

(*a*) for the guidance of persons employed by them under this Act;

(*b*) for the safe and convenient use of the wharves, docks, piers, warehouses, tramways and other works constructed or acquired by them under this Act;

(*c*) for the use of the public landing-places constructed by or belonging to them;

(*d*) for the reception and removal of goods brought within the premises of the Board;

(*e*) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

(*f*) for settling the mode of the payment of the rates and charges leviable under this Act;

(*g*) for regulating, declaring and defining the wharves, docks and piers vested in the Board on which goods shall be landed from, and shipped on board, vessels; *[1]

[2] (*h*) for fixing the maximum amount of fees payable under section 15; and

[3] (*i*) generally for carrying out the purposes of this Act.

The Board may also, from time to time, vary, alter or revoke any such bye-laws so made by them.

Approval and publication of bye-laws.

[4] **74.** No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette*; and no bye-law or alteration or revocation of a bye-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.

Cancelment by Government.

It shall be lawful for Government at any time by notification in the said Gazette to cancel any bye-law or regulation made and published under the provisions of this and of the last two preceding sections.

Penalties

75. The Board may, in the bye-laws made under section 73, prescribe

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[1] The word "and" was repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 18, Vol. IV of this Code.

[2] Cl. (*h*) of s. 73 was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 18, Vol. IV of this Code.

[3] The lettering of this clause was altered by s. 18 of the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), Vol. IV of this Code.

[4] For notifications issued under s. 74 in conjunction with s. 73, *see* those noted on pp. CXXV to CXXVIII of the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

for infringement of bye-laws.

such penalties as they shall deem fit for the infringement of the same : provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

Bye-laws and scales of rates and charges to be exhibited.

76. The Board shall cause the said bye-laws and the scales of rates and charges leviable by the Board to be printed in the English, Marathi and Gujarathi languages, to be hung up at the several wharves, docks and piers, and other convenient places on the premises of the Board.

Continuance of bye-laws framed under Bombay Act I, 1873.

77. Until bye-laws are framed by the Board under section 73, the bye-laws framed by the trustees appointed under the [1] Bombay Port Trust Act, 1873, under section 85 of that Act, and in force when this Act comes into operation, shall be deemed to have been framed under the said section 73 of this Act. Bom. Act I of 1873.

VIII.—Penalties.

For being interested in contracts with Board.

78. Any person who, being a trustee or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the [2] Indian Penal Code : XLV of 1860.

[3] Provided that nothing in this section shall apply to a person who is declared not to be disqualified, or to be deemed to have any share or interest in any contract or employment, by sub-section (2) of section 14.

For obtaining illegal gratification.

79 Any person employed under this Act, not being a public servant within the meaning of section 21 of the [2] Indian Penal Code who shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any XLV of 1860.

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[1] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.
[2] *See* the reprint of the Code as modified up to 1st April, 1903.
[3] This proviso to s. 78 was substituted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 9, Vol. IV of this Code.
The original proviso was as follows :—
"Provided that nothing in this section shall apply to a person—
(*a*) having a share in any Joint Stock Company which shall contract with, or be employed by or on behalf of the Board, or
(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or
(*c*) interested in any loan of money to the Board."

service or dis-service to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is XLV of 1860. provided by the [1]Indian Penal Code in the case of the like offence committed by a public servant.

For refusing or neglecting to appear before auditor, etc.

80. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 58, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

For setting up erection below high-water-mark in port.

81. Any person other than the Board or the Conservator of the port, who shall, without first obtaining the written consent of Government to his so doing, make, set up or fix, below high-water mark within the port, any wharf, quay, pier, mooring or other erection whatsoever, shall be punished with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring or other erection to remain after notice to remove the same has been given to him.

Any such wharf, quay, pier, mooring or other erection may be removed by the Board, and the person who made, set up, or fixed the same shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

For understating quantity or weight of goods, etc.

82. If it be found, when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been understated in any document presented to any officer of the Board for the purpose of enabling him to determine the rates or charges payable in respect of the said goods or vessel, the consignee in the case of goods imported, and the consignor in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall, on the application of the Board, be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

For evading rates, etc.

83. Any person who removes, or attempts to remove, or abets within the XLV of 1860. meaning of the [1]Indian Penal Code the removal of, any goods, vessels,

[1] *See* the reprint of the Code as modified up to 1st April, 1903.

animal or vehicle with the intention of evading payment of the rates or charges lawfully due in respect thereof to the Board, shall be punished with fine which may extend to fifty rupees.

Recovery of value of damage to property of Board.

84. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners or persons employed on such vessel, damage shall be caused to any wharf, dock, pier or other work in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel:

Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or if he appears, until he has been heard: and

Provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized [1] [Dock Master or] officer in the pilot-service of the port [2] * * * * * * [3] [unless the damage caused is in no way attributable to the order, act, or improper omission of such Dock Master or officer.]

Cognizance of offences.

85. Except as is otherwise provided in section 82, all offences against this Act or against any bye-law made under section 73 shall be cognizable by a Presidency Magistrate.

All fines and damages recovered from any offender, or by any distress under section 84, shall be paid to the Board.

IX.—Miscellaneous.

Provision when day appointed for any purpose falls on Sunday or holiday.

86. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to be done on such day shall be done on the day next after such Sunday or public holiday.

Limitation of suits, etc.

87. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act, without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

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[1] These words were inserted in s. 84 by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 20, Vol. IV of this Code.

[2] The words "or of the Master Attendant's Department" were repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 20, Vol. IV of this Code.

[3] These words were inserted in s. 84 by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 20, Vol. IV of this Code.

(*Schedule A.*)

The Board shall not be responsible for any misfeasance, malfeasance or non-feasance of any officer or servant appointed under this Act;

1875. nor, if they should be appointed by Government, under the [1] Indian Ports Act, 1875, Conservators of the port, for any misfeasance, malfeasance or non-feasance of any Deputy Conservator, Master-attendant or Harbour-master, or of any assistant or deputy of any such officer, or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board which may be used by such vessel;

nor shall the Board, or any of the said officers or servants, be liable in damages for any act *bonâ fide* done, or ordered to be done, by them in pursuance of this Act.

SCHEDULE A.

Properties referred to in section 29.

No.	Names of Holders.	General Description of Properties.
1	The Sassoon Dock Company.	All the property at Kolába belonging to the Sassoon Dock Company, known as the Sassoon Dock, together with the land on the west of Kolába road appertaining thereto and all rights, privileges and powers enjoyed or claimed by the Sassoon Dock Company in connection therewith.
2	The New Kolába Company.	A strip of land, varying from 25 to 50 feet or thereabouts in width, running along the whole foreshore of the estate of the New Kolába Company, situated at Kolába, commencing from the Kolába road at the point where the properties of the New Kolába Company and the Sassoon Dock Company adjoin, and thence continuing alongside the Bandar-wall of the Victoria Basin and the Harbour-face up to the junction of the New Kolába Company's property with the Gun-carriage Reclamation; again commencing at the junction of the New Kolába Company's property and the property of the Apollo Press Company and running along the Harbour-face and alongside the Arthur Basin up to the Kolába road; together with the whole of the Arthur Bandar and the ground adjacent thereto, situate within Customs limits, together with all rights and privileges enjoyed or claimed by the New Kolába Company in respect of the strip of land, Bandar, and ground aforesaid, and of the Victoria and Arthur Basins.

[1] *See* now the Indian Ports Act, 1889 (10 of 1889), as modified up to 1st April, 1901.

(*Schedule B.*)

SCHEDULE A—*continued.*

No.	Names of Holders.	General Description of Properties.
3	The Apollo Press Company.	All the land at Kolába, the property of the Apollo Press Company, and known as the Jamsetjee Bandar and Reclamation, including all rights and privileges enjoyed or claimed by the Apollo Press Company in respect of the said land and of the Gun-carriage Basin, together with all rights and privileges enjoyed or claimed by the Apollo Press Company at or in respect of any of the Bandar belonging to the New Kolába Company.
4	The Mázgaon Land Company.	All the land at Mázgaon, known as the Powder-works Bandar, the property of the Mázgaon Land Company, lying between, the Harbour and the western side of the road running from the Harbour Defences Office to Tank Bandar, together with all rights and privileges enjoyed or claimed by the Mázgaon, Land Company in respect of the said land.
5	The Frere Land Company.	All the land north of Tank Bandar, the property of the Frere Land Company, bounded towards the west by the Ghorupdavi road and towards the north and west by the Jackaria Bandar road, together with all rights and privileges enjoyed or claimed by the Frere Land Company in respect of the said land.
6	Hajee Ismael Hajee Hubeeb.	All the land and fish-ponds bounded by the Harbour on the east and by the Jackaria Bandar road and the Siwri road on the west and north, by the property of the Frere Land Company on the south, and by the property of the trustees of the port on the north, known as Siwri Bandar, together with all rights and privileges enjoyed or claimed in respect of the said land by the respective holders thereof.
7	Hajee Jackaria Nur Mahomed.	
8	Manockjee Adurjee.	
9	Aitwar Lukdee.	
10	Muncherjee Framjee Cama.	
11	Dadabhoy Hormusjee.	
12	Hajee Essa Hajee Fusla.	
13	Dorabjee Nusserwanjee.	
14	Byramjee Cowasjee.	
15	Esmail Mahomed Songaji.	

SCHEDULE B.

(*See section 30.*)

FORM OF SECURITY.

THE TRUSTEES OF THE PORT OF BOMBAY.

No.

Under the provisions of the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, do hereby, for ourselves and our successors, promise and agree to pay to , or order, the sum of rupees

(*Schedule C.*)

, value received; such payment to be made on demand at the office of the Accountant-General, Bombay, after the expiration of three months' notice of payment to be given by the Chairman of the said Trustees in the *Bombay Government Gazette*. We further promise and agree, for ourselves and our successors, to pay to the said , or order, interest on the said sum of rupees , from the day of until the expiration of three months after such notice of payment as aforesaid; such interest to be at the rate of four per centum per annum and to be payable on demand at the office aforesaid half-yearly on the first day of April and the first day of October in every year until the expiration of three months from the date of such notice of payment as aforesaid, when the amount of interest then due hereunder will be payable with the principal on demand at the office aforesaid and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge hereof) all further interest shall cease.

Given under our common seal this day of 187 .

(*Signature of the Chairman and two Trustees.*)

Seal. *of the Corporation.*

SCHEDULE C.

(*See section 33.*)

STATEMENT OF CAPITAL DEBTS OF THE BOARD DUE TO THE SECRETARY OF STATE FOR INDIA IN COUNCIL.

On account of what Property, etc.	Bearing interest.	Not bearing interest.	Total.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
Elphinstone Estate, purchase price .	1,85,91,596 12 8	.....	
Elphinstone Estate, expended in 11 months to 31st March, 1871 .	7,47,370 2 10	.....	
Elphinstone Estate, expended in 12 months to 31st March, 1872 .	2,75,090 8 6	.....	
Elphinstone Estate, Troop Siding, Carnac Bandar . . .	39,790 3 2	.....	
			1,9 6,53,847 112

(*Schedule C.*)

SCHEDULE C—*continued.*

On account of what Property, etc.	Bearing interest.	Total bearing interest.	Total.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March, 1871	3,57,596 8 8	.....	
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March, 1872	2,01,345 6 4	.....	5,58,941 15 0
Apollo Bay Reclamation, expended in year to 31st March, 1872 . .	9,752 11 11	.....	9,752 11 11
Wellington Reclamation, expended in year to 31st March, 1872 . .	934 12 8	.....	934 12 8
Apollo Pier, expended prior to 31st March, 1870	.....	2,23,038 12 2	
Apollo Pier, expended in year to 31st March, 1871	1,38,173 7 8	.....	
Apollo Pier, expended in year to 31st March, 1872	61,825 9 2	.....	4,23,037 13 0
Tank Bandar, expended in year to 31st March, 1871	182 0 0	.....	182 0 0
Customs Bonded Warehouse } Apollo Bonded Warehouse . . .	.....	5,50,000 0 0	
Customs Bonded Warehouse } Custom-house Godown .	.....	25,165 0 0	5,75,165 0 0
Kussara Bandar	.....	5,285 0 0	5,285 0 0
Saw Mill Property, Tank Bandar .	.....	41,189 14 4	41,189 14 4
Expended on the above properties between 31st March, 1872, and the passing of Bombay Act I of 1873 .	1,45,053 5 4	.....	1,45,053 5 4
Balance of interest unpaid at 31st March, 1871	2,75,273 4 7		
Balance of interest unpaid at 31st March, 1872	1,50,233 3 2	.....	6,02,042 10 0
Balance of interest unpaid for the period from 1st April, 1872, until the date on which Bombay Act I of 1873 came into operation . .	1,76,536 2 3		
Total .	2,11,70,754 2 11	8,44,678 10 6	2,20,15,432 13 5

(*Schedule D.*)

SCHEDULE D.

(*See section 42.*)

FORM OF DEBENTURE.

THE TRUSTEES OF THE PORT OF BOMBAY.

The 18

No.

By virtue of the Act No. of 1879 of the Council of the Governor of Bombay for making Laws and Regulations, entitled the Bombay Port Trust Act, 1879, we, the trustees of the port of Bombay, in consideration of the sum of rupees paid to us by *A. B.*, of , promise to pay to the said , or order, the said sum of rupees after the date hereof, together with interest at the rate of per centum per annum, payable half-yearly on the day of and the day of .

Given under our corporate seal this day of 187 .

(*Signatures of the Chairman and two Trustees.*)

Seal. *of the Corporation.*

THE BOMBAY IRRIGATION ACT, 1879.

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